



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Height Adjustable Workstations

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (CBP) has issued a final determination concerning the country of origin of height adjustable workstations. Based upon the facts presented, CBP has concluded that the imported components of the workstations undergo substantial transformation in the United States when made into the final workstations.

DATES: The final determination was issued on April 10, 2023. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination no later than [INSERT 30 DAYS FROM DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

FOR FURTHER INFORMATION CONTACT: Albena Peters, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade, at (202) 325-0321.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on April 10, 2023, U.S. Customs and Border Protection (CBP) issued a final determination concerning the country of origin of height adjustable workstations for purposes of title III of the Trade Agreements Act of 1979. This final determination, HQ H330862, was issued at the request of RightAngle Products, under procedures set forth at 19 CFR part 177, subpart B, which implements title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, the imported components are substantially transformed in the United States when made into the subject workstations.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: April 21, 2023.

Alice A. Kipel,
*Executive Director,
Regulations and Rulings,
Office of Trade.*

HQ H330862

April 10, 2023

OT:RR:CTF:VS H330862 AP

CATEGORY: Origin

Keeley Boeve
KB Contract Consulting
4444 132nd Avenue
Hamilton, MI 49419

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. 2511); Subpart B, Part 177, CBP Regulations; Country of Origin of Height Adjustable Workstations

Dear Ms. Boeve:

This is in response to your March 24, 2023 request, on behalf of RightAngle Products (“RightAngle”), for a final determination concerning the country of origin of certain height adjustable workstations pursuant to Title III of the Trade Agreements Act of 1979 (“TAA”), as amended (19 U.S.C. 2511 *et seq.*), and subpart B of Part 177, U.S. Customs and Border Protection (“CBP”) Regulations (19 CFR 177.21, *et seq.*). RightAngle is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and 177.23(a) and is therefore entitled to request this final determination.

FACTS:

The height adjustable workstations at issue are part of the RightAngle's NewHeights™ series, which include the "Elegante XT," "Eficiente LC," "Bonita ET" electric height adjustable desks and the "Levante" manual height adjustable desk. Each workstation has a laminate desktop and metal legs. The raw materials for the desktop and the legs are sourced from the United States. The laminate desktop is manufactured in the United States from logs which go through a woodchipper and a flaking machine to create particle boards with thermally fused laminate that are cut to size and shape. The metal legs are made and welded together in the United States. The only non-U.S. originating components are the table controller and the digital keyboard for the controller, which are manufactured in Hungary. You explain that these Hungarian components are needed "to move the table up and down as they are the push button and control box that are wired into the tables and cannot be used on their own." The controller will be attached to the bottom of the tabletop by two screws. The square control panels will be mounted from the bottom to the edge of the tabletop in a way that the keys will be easily accessible. The control panels with a cable will be plugged into the connector of the controller.

ISSUE:

Whether the imported components are substantially transformed when made into the height adjustable workstations in the United States.

LAW AND ANALYSIS:

CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government, pursuant to subpart B of Part 177, 19 CFR 177.21-177.31, which implements Title III of the TAA, as amended (19 U.S.C. 2511-2518).

CBP's authority to issue advisory rulings and final determinations is set forth in 19 U.S.C. 2515(b)(1), which states:

For the purposes of this subchapter, the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether, under section 2518(4)(B) of this title, **an article is or would be a product of a foreign country or instrumentality designated pursuant to section 2511(b) of this title.**

Emphasis added.

The Secretary of the Treasury's authority mentioned above, along with other customs revenue functions, are delegated to CBP in the Appendix to 19 CFR Part 0 - Treasury Department Order No. 100-16, 68 Fed. Reg. 28, 322 (May 23, 2003).

The rule of origin set forth under 19 U.S.C. 2518(4)(B) states:

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 CFR 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulation (“FAR”). *See* 19 CFR 177.21. In this regard, CBP recognizes that the FAR restricts the U.S. Government’s purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 CFR 25.403(c)(1).

The FAR, 48 CFR 25.003, defines “U.S.-made end product” as:

... an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

Section 25.003 defines “designated country end product” as:

a WTO GPA [World Trade Organization Government Procurement Agreement] country end product, an FTA [Free Trade Agreement] country end product, a least developed country end product, or a Caribbean Basin country end product.

Section 25.003 defines “WTO GPA country end product” as an article that:

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

As indicated above, the height adjustable workstations are produced with two non-U.S. components, the table controller and the digital keyboard. The desktop and the legs are manufactured in the United States.

In order to determine whether a substantial transformation occurs, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item’s components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, CBP considers factors such as the resources expended on product design and development, the extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process when determining whether a substantial transformation has occurred. No one factor is determinative.

A new and different article of commerce is an article that has undergone a change in commercial designation or identity, fundamental character, or commercial use. A determinative issue is the extent of the operations performed and whether the materials lose their identity and become an integral part of the new article. *See Nat’l Hand Tool Corp. v. United States*, 16 CIT 308 (1992), *aff’d*, 989 F.2d 1201 (Fed. Cir. 1993). In *Carlson Furniture Indus. v. United States*, 65 Cust. Ct. 474, Cust. Dec. 4126 (1970), which involved wooden chair parts, the court held that

the assembly operations after importation were substantial in nature and more than a simple assembly of parts. The importer assembled, fitted, and glued the wooden parts together, inserted steel pins into the key joints, cut the legs to length and leveled them, and in some instances, upholstered the chairs and fitted the legs with glides and casters. The assembly operations resulted in the creation of a new article of commerce.

Headquarters Ruling Letter (“HQ”) H280512, dated Mar. 7, 2017, considered the origin of a desktop workstation for purposes of U.S. Government procurement. The main components of the sit-to-stand workstation were a Chinese-origin lift assembly of base metal, and a U.S.-originating laminated particle board work surface and keyboard tray. The lift assembly provided user assisted lift functionality by means of spring force to allow adjustment of the workstation between sitting and standing positions. In the United States, the Chinese lift assembly was attached to components fabricated in the United States including the work surface, keyboard tray, right and left keyboard support brackets, and metal support bar to form the workstation. The processes in the United States included sawing, profiling, sanding, hot-pressing and trimming to manufacture the work surface and keyboard tray as well as laser-cutting, bending and painting of the sheet metal components followed by final assembly of the U.S.-origin and the imported components. CBP determined that the imported lift assembly was substantially transformed as a result of the assembly performed in the United States to produce the finished desktop workstation. The decision noted that the lift assembly was not functional to an end user by itself as it did not include the primary features of the U.S.-origin work surface and keyboard tray which allowed the work to be conducted, and without which, the lifting mechanism was incapable of being used as a workstation. CBP found the lift assembly was substantially transformed in the United States into a desktop workstation.

Similar to the lift assembly in HQ H280512, the imported controller and digital keyboard here are substantially transformed when they are mounted to the desktop and when the control panels with a cable are plugged into the connector of the controller to produce the finished height adjustable workstations. The controller and the digital keyboard are not functional to end users by themselves but they become an integral part of the workstations. To move the workstations up and down, the controller and the digital keyboard need to be attached and wired into the desktop.

Based on the foregoing, we find that the last substantial transformation occurs in the United States, and therefore, the height adjustable workstation is not a product of a foreign country or instrumentality designated pursuant to 25 U.S.C. 2511(b). As to whether the workstation produced in the United States qualifies as a “U.S.-made end product,” you may wish to consult with the relevant government procuring agency and review *Acetris Health, LLC v. United States*, 949 F.3d 719 (Fed. Cir. 2020).

HOLDING:

Based on the information outlined above, we determine that the components imported into the United States undergo a substantial transformation when made into the subject height adjustable workstations.

Notice of this final determination will be given in the *Federal Register*, as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, any party-at-interest may, within 30 days of publication of the *Federal Register* Notice referenced above, seek judicial review of this final determination before the U.S. Court of International Trade.

Sincerely,

Alice A. Kipel
Executive Director
Regulations and Rulings
Office of Trade

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